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Selected Cases on Bankruptcy and Reorganization (Book Review)

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by the author very materially simplify the rule. To such an extent in fact are they found to be helpful that we may well feel that one of the greatest bugaboos presented to the legal profession should in great part lose its terrors for the user of this book. It would not be fair in speaking of this book not to say a word in praise of the lawyer-like manner in which the field of "privilege" between attorney and client, doctor and patient, *etc.* has been treated. This field of the law, which during the past few years has been given a great deal of publicity in the press during not only judicial but legislative investigations, is most clearly and succinctly explained by Professor O'Toole and a frequent reading of the cases thereunder will prove of great benefit to the student in an understanding of the necessity for these privileges.

The highlight of the entire volume is to be found in Chapters 27 and 28 where the true practicality of the book is best illustrated. The author has devoted a great deal of attention and has obviously spent a great deal of time in research on the practical subjects of examination and cross-examination, impeachment and rehabilitation of witnesses. The great fault claimed of evidence courses in the past, that while they have taught the rules they have not shown the application of them in fact, must be said to be eliminated in "Cases and Materials on Evidence" in these two chapters. Even though the author had not been careful throughout the rest of the book, as he has been to show the practical side of the law of evidence, these two chapters would prove to be a real application of the practice to the theory; and the student who has carefully followed the course as set forth in these chapters cannot fail, upon completion of his studies, to realize the deep fundamental principles underlying those rules and regulations which have been laid down for the purpose of adjusting our court procedure and of securing for both plaintiff and defendant in every action a full and fair presentation of the case.

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SELECTED CASES ON BANKRUPTCY AND REORGANIZATION. By Samuel C. Dubertein. Brooklyn: St. John's University School of Law, 1934, pp. ix, 546.

Recent events have ushered in a new era in the laws with respect to insolvency. It is doubtful whether the Constitution makers, when they provided that Congress shall have power to establish "uniform laws on the subject of bankruptcies throughout the United States," had in mind that the Bankruptcy Act might become an instrument of the economic policy of the nation. But much has occurred since those early days and now our federal law-makers must use every avenue of power that is given to them by the Constitution in order properly to effectuate the purposes which are the mainspring of all modern governments.

The subject matter of this volume, therefore, has become and will increasingly become of greater and greater significant importance to law school curricula, and the present collection of cases and materials is an extremely

useful instrument with which to procure an acquaintance with the general juristic field.

The reviewer's eye is of course attracted by the inclusion for the first time in a case book on bankruptcy of the cases dealing with reorganization under the new sections of the Law. Already serious problems have had to be considered by the courts in this field not only with regard to the reorganization of railroads, but also with regard to the reorganization of private corporations. The courts are still in the process of working out not only the procedural problems involved in the administration of the new statutes, but also important problems of statutory interpretation and the application of a sound public policy by the usual method of judicial inclusion and exclusion. Of course, it is too soon to prophesy with regard to the direction which these cases are going to take, but the mere classification of the cases which the editor of this case book has undertaken, will afford the student an ample opportunity at least to realize the essential nature of the problems involved in the administration of the new law.

Another new series of problems have been raised by the provisions of Sections 73 and 74 of the Bankruptcy Act with regard to the relief of debtors. Here, too, the Bankruptcy Act is stretching into a new field and again the editor has collected a series of cases which illustrate the problems involved and provide ample opportunity for reflection and classroom discussion.

When we consider the immense proportions to which the internal debt in the United States has grown with the last decade,[1] the realization is forced upon us that one of the essential problems involved in the process of the restoration of prosperity is the readjustment of this vast indebtedness. No one simple plan can hope to achieve any important consequences in this connection. The process of devaluating the dollar which the present administration is frequently charged with, is of course a well known method of eliminating debts. The disastrous consequences which frequently attend uncontrolled inflation have been an object lesson to American statesmen and it is natural that they should seek other means to accomplish this purpose. Uncontrolled expansion that took place during the period preceding the depression has left many problems to be solved along these lines and the new sections of the Bankruptcy Act are a vital element in the administration policy looking to the readjustment of the debt structure. From this point of view, the relief of debtors under proper safeguards and the reorganization of corporations are

[1] The latest figures with regard to the internal debt of the United States, are those for 1933, estimated at one hundred and thirty-four billions of dollars. The following table will illustrate the increase of indebtedness between 1913-14 and 1933:

Farm mortgage debts have increased	156%
Urban mortgage debts have increased	435%
Railroad debts have increased	28%
Public utility debts have increased	241%
Industrial debts have increased	179%
Financial debts have increased	443%
Federal debts have increased	1371%
State and local debts have increased	293%

extremely important aspects of the process of recovery and are among the most salutary measures which have been adopted in recent times. During the next decade, this branch of the law must prove of vital importance to the welfare of the people and it is altogether fitting that it should begin to occupy a more important sphere in the legal thinking of students.

For these reasons, the new edition of Professor Duberstein's case book is a welcome addition to the law library. It is not only a most useful compendium of cases with which to introduce a student to the intricacies of Bankruptcy Law, but in fact will find a useful place in the law library of every lawyer who has to do with these matters. The scientific classification of all important decisions under the new and old sections of the Bankruptcy Law, the convenient reprinting of the General Orders in Bankruptcy and of the entire statute in its modified form are of inestimable utility to lawyer and student alike.

This reviewer takes personal pride in the achievement of his colleague in the preparation of this book and is glad of the opportunity to state unequivocally that it ranks among the finest case books available for students' use.

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CRIMINAL LAW IN ACTION. By John Barker Waite. New York: Sears Publishing Co., Inc., 1934, pp. 321.

This is not a text book, though written by a professor of criminal law. It is the expression, in rather popular form, of practical views on the failure of our criminal law. The philosophy of the criminal law is presented understandably, so that a well-informed layman or a lawyer who is not a technical criminologist can easily comprehend it. The sum and substance of the author's view on the purpose of the criminal law is that its punishments are imposed as retribution, or perhaps vengeance; that its proponents justify it on the ground that it acts as a deterrent and, in any event, as an expression of the moral indignation of the community. Professor Waite suggests, as has frequently been pointed out, that punishment does not actually deter and that it would be sufficient if the criminal process were something in the nature of a social disapproval of the prohibited act. By way of example, he cites an instance of Soviet justice, in which a culprit is publicly censured for his iniquity and no other penalty imposed.

The insanity defense is discussed. Its use in bringing about a breakdown in the criminal law is grossly exaggerated, though the author fails to say this. The number of insanity defenses the country over in the last decade represent a pitiful and almost negligible minority of criminal-law acquittals. Professor Waite makes the suggestion, which ought to be considered seriously—namely, that insanity shall not be considered a reason for exemption from punishment, but that it should be the purpose of the law to segregate, rather than punish, dangerous prisoners. Of course, the law attempts to do this now in part when